

**Nicholas J. Henderson, OSB No. 074027**

Email: [nhenderson@portlaw.com](mailto:nhenderson@portlaw.com)

Motschenbacher & Blattner, LLP

117 SW Taylor Street, Suite 200

Portland, Oregon 97204-3029

Telephone: (503) 417-0508

Facsimile: (503) 417-0501

Attorney for Defendant Mukesh Patel

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

MALBCO HOLDINGS, LLC, a  
Washington limited liability company,

Plaintiff,

v.

BUHPENDRA R. PATEL, and NEELA B.  
PATEL, husband and wife; HEETAN B.  
PATEL, HEETAL B. PATEL-MANINI;  
and MUKESH PATEL,

Defendant.

Case No. 3:14-cv-947

DEFENDANT MUKESH PATEL'S  
ANSWER TO AMENDED COMPLAINT<  
WITH AFFIRMATIVE DEFENSES

JURY DEMANDED

Answering Plaintiff Malbco Holdings, LLC ("Plaintiff")'s Complaint, Defendant Mukesh Patel ( "Defendant") admits, denies or otherwise alleges as follows:

**PARTIES**

1. Defendant denies that the statements contained in paragraph 1 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

2. Defendant denies that the statements contained in paragraphs 2 through 4 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

3. Defendant admits the allegations contained in paragraph 5.

### **JURISDICTION AND VENUE**

4. Defendant admits the allegations contained in paragraphs 6 and 7.

### **GENERAL ALLEGATIONS**

5. Answering paragraphs 8 through 27, Defendant states that he lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in these paragraphs, which has the effect of a denial under Rule 8(b)(5).

6. Defendant admits paragraph 28.

7. Answering paragraph 29, Defendant admits that an agreement was amended in November of 2013. Defendant asserts that the remaining allegations are legal conclusions, and, so stating, denies them.

8. Defendant admits paragraph 30.

9. Answering paragraph 31, Defendant denies the allegation that Bhupendra Patel and Neela Patel received nothing of value in exchange for giving Defendant a deed of trust on their house. Defendant also admits that McLoughlin Lodging Company LLC holds a security interest in all of Bhupendra Patel and Neela Patel's personal property. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph 31, which has the effect of a denial under Rule 8(b)(5).

10. Defendant denies the allegations contained in paragraph 32.

11. Defendant states that he lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 33, which has the effect of a denial under Rule 8(b)(5).

**FIRST CLAIM FOR RELIEF  
(Fraudulent Transfer – ORS 95.240)  
(Against all defendants)**

12. Defendant answers the allegations incorporated in paragraph 34 as expressly stated above.

13. Answering paragraphs 35 through 36, Defendant states that he lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in these paragraphs, which has the effect of a denial under Rule 8(b)(5).

14. Defendant denies that the statements contained in paragraph 37 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

15. Answering paragraph 38, Defendant denies the allegations that reasonably equivalent value was not provided to Bhupendra R. Patel or Neela B. Patel in exchange for transfer made to McLoughlin Lodging Company or Mukesh Patel. Defendant states that he lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 38, which has the effect of a denial under Rule 8(b)(5).

16. Defendant states that he lacks knowledge or information sufficient to form a belief about the truth of the allegations contained paragraph 39, which has the effect of a denial under Rule 8(b)(5).

17. Defendant denies that the statements contained in paragraph 40 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

18. Defendant denies the allegations contained in paragraphs 41 through 44.

/////

/////

/////

**SECOND CLAIM FOR RELIEF**  
**(Fraudulent Transfer – ORS 95.230)**  
**(Against all defendants)**

19. Defendant answers the allegations incorporated in paragraph 45 as expressly stated above.

20. Defendant denies that the statements contained in paragraph 46 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

21. Defendant denies the allegations contained in paragraph 47.

22. Defendant denies that the statements contained in paragraph 48 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

23. Defendant denies the allegations contained in paragraphs 49 through 51.

**THIRD CLAIM FOR RELIEF**  
**(Attorney Fees)**  
**(Against Bhupendra R. Patel and Neela B. Patel)**

24. Defendant answers the allegations incorporated into paragraph 52 as expressly stated above.

25. Defendant denies that the statements contained in paragraph 53 and 54 require a response from Defendant, as they do not constitute allegations asserted against him, pursuant to Rule 8(b)(1)(B), and thus are considered denied or avoided under Rule 8(b)(6).

**AFFIRMATIVE DEFENSES**

26. Plaintiff has failed to state a claim upon which relief may be granted.

27. Plaintiff's claims are barred by applicable statutes of limitation.

28. Plaintiff's claims are barred, in whole or in part, by the equitable doctrines of estoppel, waiver and laches.

29. All transfers to Defendant were done in good faith, for fair consideration.
30. Plaintiff has failed to mitigate its damages.
31. Plaintiff's damages are the result of acts or omissions committed by others over whom Defendant has no responsibility or control.

WHEREFORE, Defendant Mukesh Patel prays for judgment as follows:

1. Plaintiff's Complaint be dismissed with prejudice and ordering that Plaintiff take nothing thereby;
2. Defendant be awarded his costs and disbursements incurred herein;
3. Defendant be awarded such other relief as the court may deem just and equitable.

DATED this 24<sup>th</sup> day of November, 2014.

MOTSCHENBACHER & BLATTNER LLP

By: /s/ Nicholas J. Henderson  
Nicholas J. Henderson, OSB No. 074027  
Of Attorneys for Defendant Mukesh Patel